

Cause No. CVOC-23-0000427

ANDY GARCIA, AS TRUSTEE OF	§	IN THE DISTRICT COURT
BOGER FAMILY TRUST, JULIE A.	§	
MILLS, PATTI LYNN WIATREK F/K/A	§	
PATTI LYNN BROWN, O'BANYON	§	
WOOTSEN CUSTER AND NATALIE	§	
CHRISTINE CUSTER, BRYAN NEFF	§	
AND LAURIE NEFF, LORETTA	§	
NEUMANN, NEVELS PROPERTIES, LLC,	§	
AND LUKE SCHILHAB AND ALLISON	§	
SCHILHAB,	§	198 TH JUDICIAL DISTRICT
Plaintiffs,	§	
	§	
v.	§	
	§	
SARA ANN SHAW, AS TRUSTEE OF	§	
THE SHAD C. SHAW FAMILY TRUST,	§	
DAVID EUGENE HEEP, PINE GATE	§	
RENEWABLES, LLC AND RIO LAGO	§	
SOLAR, LLC,	§	
Defendants.	§	BANDERA COUNTY, TEXAS

ORDER ENFORCING TEMPORARY INJUNCTION

On March 27, 2024, the court heard Plaintiffs' Motion for Contempt and Request for Emergency Relief and Plaintiffs' Amended Emergency Motion to Enforce Temporary Injunction.

The parties appeared through their respective counsel.

After considering the evidence, the arguments of counsel and the credibility of the witnesses, the court makes the following findings of fact:

1. On February 7, 2024, the court signed a Temporary Injunction Order that enjoined defendants, *inter alia*, from “any soil-disturbing activities, including grubbing the soil, stump removal, removal of root balls, stripping the soil and grading the soil” prior to the preparation and implementation of TCEQ-approved SWPPPs;
2. Defendants, Pine Gate Renewables, LLC and Rio Lago Solar, LLC, prepared a “Phase I Stormwater Pollution Prevention Plan” (“SWP3”) in February 2024;
3. As part of the SWP3, “Phase 1 Above Ground Tree Felling Plans for Rio Lago Solar” were prepared;
4. The “General Notes” of the “Phase 1 Above Ground Tree Felling Plans for Rio Lago Solar” provide that “[a]ll existing trees shall be cut close to the ground and root structures shall remain in place”;
5. The “Phase 1 Above Ground Tree Felling Plans for Rio Lago Solar” provides “contractor to cut all trees and shrubs close to the ground and leave root structures and groundcover in place”;
6. In February 2024, parties acting on behalf of, and at the direction of Pine Gate and Rio Lago conducted soil-disturbing activities, including felling trees below grade, grubbing the soil, stump removal, and removal of root balls on the property depicted on sheet numbers C-304, C-305 and C-307 of the Phase 1 Above Ground Tree Felling Plans for Rio Lago Solar;

Based upon these findings, the court concludes that Defendants, Pine Gate Renewables, LLC and Rio Lago Solar, LLC, have violated this court’s Temporary Injunction Order by conducting soil-disturbing activities, including felling trees below grade, grubbing the soil, stump removal, and removal of root balls on the property depicted on sheet numbers C-304, C-305 and C-307

of the Phase 1 Above Ground Tree Felling Plans for Rio Lago Solar in contravention of the SWP3.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendants, Pine Gate Renewables, LLC and Rio Lago Solar, LLC, are sanctioned, jointly and severally, in the amount of \$10,000.00. Imposition of these sanctions is abated and payment will not be required so long as there is full compliance with the following conditions:

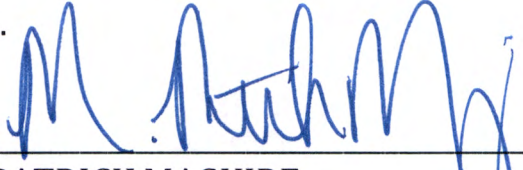
1. Alan Stanton, PE, CFM, shall be allowed access to the leased solar farm properties at all reasonable times to inspect the implementation of any and all SWPPPs;
2. There shall be no further violations of any existing or subsequent SWPPPs by Defendants; and
3. There shall be no further violations of the Temporary Injunction Order by Defendants.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that if, after notice and hearing, it is determined that these conditions have not been met by Defendants, then the \$10,000.00 sanctions against Pine Gate Renewables, LLC and Rio Lago Solar, LLC shall be immediately payable to Plaintiffs together with any further sanctions the court deems appropriate.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all requests for attorney's fees and expert fees are denied.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiffs' motion for contempt and/or sanctions against Defendants' counsel is denied.

SIGNED this 3rd day of April, 2024.



M. PATRICK MAGUIRE,
198TH DISTRICT JUDGE

FILED
AT 1:07 O'CLOCK P.M. ON

APR 05 2024

TAMMY KNEUPER, 198TH DISTRICT CLERK
BANDERA COUNTY, TEXAS
BY Alma Baker DEPUTY

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Filing Code Description: Signed Order

Filing Description: Order Enforcing Temporary Injunction

Status as of 4/5/2024 1:39 PM CST

Associated Case Party: Andy Garcia, as Trustee of Boger Family Trust

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Associated Case Party: Pine Gate Renewables, LLC

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Associated Case Party: Pine Gate Renewables, LLC

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